IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2100 of 2005

Between:

A. Chitti Bangaru Raju @ Achyutha Bangaru Raju
S/o Bangaru Raju r/o Narasimhapuram(V),
Bhimavaram(M), West Godavari District

..... PETITIONER

AND

1 Divisional Engineer (Assessments), Eastern Power Distribution Company of A.P. Ltd.,
Rajahmundry, E.G. District
2 Assistant Divisional Engineer (Operation), Eastern Power Distribution Company of A.P. Ltd.,
Bhimavaram West Godavari District
3 Assistant Accounts Officer (ERO) Estern Power Distribution Company of A.P. Ltd., Bhimavaram,
West Godavari District
4 Assistant Engineer (DPE-1), Eastern Power Distribution Company of Andhra Pradesh Ltd., Elurur,
West Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of mandamus declaring the order in Letter No. AE/0/BVRM/SER/D No. 35/05 dt 22-1-2005, passed by the 2nd respondent is illegal, irregular and without any sanction of the law and violtive of Article 14 and 21 of Constitution of India and also the provisions of electricity Act and consequently direct the respondents to drop the proceedings and continue to supply power to petitioner's service connection.

Counsel for the Petitioner:MR.SATYANARAYANA NIMMAGADDA

Counsel for the Respondent Nos.1 to 4:Mr.M.Subba Rao

The Court at the admissions stage made the following :

ORDER:

The petitioner is running an industry at Narasimhapuram Village, Bhimavaram Mandal, West Godavari District and is extended power supply under industrial category through Service Connection No.103. An inspection was conducted by the 4th respondent on 03.12.2004. An order of provisional assessment, dated 22.01.2005 was issued by the 2nd respondent alleging that energy worth Rs.67,730/- was misused by the petitioner. It was also pointed out that in case the petitioner wants continuation of power supply, he shall deposit half of the said amount being Rs.33,865/- within 15 days. The petitioner challenges the same.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

As on today, the petitioner is served with an order of provisional assessment. Under Section 126 of the Electricity Act, 2003, further steps are required to be taken in the form of issuing a show cause notice and passing an order of final assessment. The liability of a customer to pay any amount would arise, if only an order of final assessment is passed. Till then, no liability can be fastened upon him.

A Division Bench of this Court in W.A.Nos.452 and 477 of 2004 held that a consumer cannot be required to pay any amount on the strength of an order of provisional assessment nor the power supply can be disconnected for non-payment of the same.

For the foregoing reasons, the writ petition is allowed and it is directed that the respondents shall restore the power supply to the petitioner forthwith, without insisting on payment of any amount indicated in the order of provisional assessment. The liability of the petitioner would arise only after an order of final assessment is passed. The petitioner shall however be liable to pay the regular consumption charges. There shall be no order as to costs

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09.02.2005

Note: Issue C.C. in two days.

(B/o)

Jsu

To

1 Divisional Engineer (Assessments), Eastern Power Distribution Company of A.P. Ltd.,
Rajahmundry, E.G. District
2 Assistant Divisional Engineer (Operation), Eastern Power Distribution Company of A.P. Ltd.,
Bhimavaram West Godavari District
3 Assistant Accounts Officer (ERO) Estern Power Distribution Company of A.P. Ltd., Bhimavaram,
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